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FILED
OCT 31 1949
CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

October Term, 1948

No. 255

GERHART EISLER, *Petitioner*

v.

UNITED STATES OF AMERICA

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS WRIT OF CERTIORARI

The government's motion discloses only one change of circumstances since the Court acted on this matter last term. That is that Eisler has accepted public office in the Soviet Zone of Germany.

Whatever significance this fact has is entirely of a political nature. While its recitation may be of a piece with the political nature of the prosecution, the matter hardly seems one for the Court to consider.

No occasion appears therefore for the Court to change the order it last entered. But since the government has chosen, for undisclosed reasons, to reopen the matter, we believe it appropriate to repeat that in our opinion the best traditions of the Court and the public interest would be served by a decision of the case on the merits. In this respect we share the views expressed by Mr. Justice Murphy and Mr. Justice Jackson, dissenting, in *Eisler v. United States*, 338 U. S. 189, 190-193.

Respectfully submitted,

DAVID REIN
JOSEPH FORER
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